UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

MARCUS LaSHAWN PECK,

Plaintiff,

v.   CAUSE NO. 3:24-CV-228 DRL-MGG

WILLIAM J. NELSON and MARION
COUNTY PROSECUTOR's OFFICE,

Defendants.

OPINION AND ORDER

Marcus LaShawn Peck, proceeding *pro se*, filed a motion asking the court to reconsider its order denying his motion for leave to file *in forma pauperis* and dismissing his case under Federal Rule of Civil Procedure 59(e). "To prevail on a Rule 59(e) motion to amend judgment, a party must 'clearly establish' (1) that the court committed a manifest error of law or fact, or (2) that newly discovered evidence precluded entry of judgment." *Blue v. Hartford Life & Accident Ins. Co.*, 698 F.3d 587, 598 (7th Cir. 2012). Mr. Peck has established neither.

The court has already explained that Mr. Peck cannot sue Judge William J. Nelson because of judicial immunity. *Polzin v. Gage*, 636 F.3d 834, 838 (7th Cir. 2011). Mr. Peck's constitutional allegations do not change the court's prior analysis.

Similarly, Mr. Peck asks the court for leave to amend his complaint against the Marion County Prosecutor's Office to provide more specific allegations, but new allegations will not change the fact that a prosecutor's office is not a "person" for purposes of 42 U.S.C. § 1983. *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 63 (1989); *see also Jones v. Indiana*, 2009 U.S. Dist. LEXIS 60872, 5-6 (N.D. Ind. July 16, 2009) (Indiana county prosecutor's office was not subject to suit under 42 U.S.C. § 1983). Nor will new allegations impact the county prosecutor's office's entitlement to Eleventh Amendment

immunity. *de Lima Silva v. Dep't of Corr.*, 917 F.3d 546, 565 (7th Cir. 2019); *Martin v. Noble Cnty. Sheriff's Dep't*, 2021 U.S. Dist. LEXIS 1053, 67 (N.D. Ind. Jan. 4, 2021).

Nothing in Mr. Peck's motion for reconsideration demonstrates an error of law or fact, so the court DENIES his motion for reconsideration [8].

SO ORDERED.

April 23, 2024   *s/ Damon R. Leichty*
                                                       Judge, United States District Court

2